

## **Assembly Bill No. 2669**

### **CHAPTER 305**

An act to amend, repeal, and add Section 695.221 of the Code of Civil Procedure, and to amend Sections 4009, 4504, and 17402 of the Family Code, relating to child support.

[Approved by Governor August 24, 2004. Filed with  
Secretary of State August 25, 2004.]

#### **LEGISLATIVE COUNSEL'S DIGEST**

**AB 2669, Garcia. Enforcement of support orders.**

(1) Existing law provides that the satisfaction of a money judgment for support shall be credited first against the current month's support, then against the accrued interest that remains unsatisfied, then against the principal amount of the judgment that remains unsatisfied.

On and after January 1, 2009, this bill would revise that provision to require that after the money is first credited against the current month's support, the money shall next be credited against the principal amount of the judgment remaining unsatisfied, then against the accrued interest that remains unsatisfied. The bill would make a related change to a provision governing payments made for the support of a child by specified federal agencies.

(2) Existing law provides that a noncustodial parent is obligated to the county in any case of separation or desertion by that parent that results in a grant of public assistance to the family for the amount specified in a court order for the support and maintenance of the family. However, for cases filed on or after January 1, 2000, the obligation of that parent to the county is the amount that would have been specified in an order for the support and maintenance of the family during a period of separation or desertion up to one year prior to the filing date. Existing law also provides that the amount may be reduced by any amount actually paid by the parent to the custodian of the child.

This bill would delete the latter provisions providing that a parent is obligated for amounts that would have been specified in a court order and reducing the obligation for amounts actually paid. The bill would further revise and recast provisions related to the amount of obligation owed by each parent, and would require a specified computation therefor.

*The people of the State of California do enact as follows:*

SECTION 1. Section 695.221 of the Code of Civil Procedure is amended to read:

695.221. Satisfaction of a money judgment for support shall be credited as follows:

(a) The money shall first be credited against the current month's support.

(b) Any remaining money is next to be credited against the accrued interest that remains unsatisfied.

(c) Any remaining money shall be credited against the principal amount of the judgment remaining unsatisfied. If the judgment is payable in installments, the remaining money shall be credited against the matured installments in the order in which they matured.

(d) In cases enforced pursuant to Part D (commencing with Section 651) of Subchapter 4 of Chapter 7 of Title 42 of the United States Code, if a lump-sum payment is collected from a support obligor who has money judgments for support owing to more than one family, after the implementation of the California Child Support Automation System (CCSAS), all support collected shall be distributed pursuant to guidelines developed by the State Department of Child Support Services.

(e) Notwithstanding subdivisions (a), (b), and (c), a collection received as a result of a federal tax refund offset shall first be credited against the interest and then the principal amount of past due support that has been assigned to the state pursuant to Section 11477 of the Welfare and Institutions Code and federal law prior to the interest and then principal amount of any other past due support remaining unsatisfied.

(f) If federal law does not permit states to adopt the same order of distribution for the pre- and post-assistance child support arrears effective October 1, 1998, the following shall be the order of distribution of child support collections through September 30, 2000, except for federal tax refund offset collections, for child support received for families and children who are former recipients of Aid to Families with Dependent Children (AFDC) program benefits or former recipients of Temporary Assistance for Needy Families (TANF) program benefits:

(1) The money shall first be credited against the current month's support.

(2) Any remaining money shall next be credited against interest that accrued on arrearages owed to the family or children since leaving the AFDC program or the TANF program and then the arrearages.

(3) Any remaining money shall next be credited against interest that accrued on arrearages owed during the time the family or children



received benefits under the AFDC program or the TANF program and then the arrearages.

(4) Any remaining money shall next be credited against interest that accrued on arrearages owed to the family or children prior to receiving benefits from the AFDC program or the TANF program and then the arrearages.

(g) If federal law does permit states to adopt the same order of distribution for the pre- and post-assistance child support arrears effective October 1, 1998, or effective October 1, 2000, whichever comes first, the following shall be the order of distribution of child support collections, except for federal tax refund offset collections, for child support received for families and children who are former recipients of AFDC program benefits or former recipients of TANF program benefits:

(1) The money shall first be credited against the current month's support.

(2) Any remaining money shall next be credited against interest that accrued on arrearages owed to the family or children since leaving the AFDC program or the TANF program and then the arrearages.

(3) Any remaining money shall next be credited against interest that accrued on arrearages owed to the family or children prior to receiving benefits from the AFDC program or the TANF program and then the arrearages.

(4) Any remaining money shall next be credited against interest that accrued on arrearages owed during the time the family or children received benefits under the AFDC program or the TANF program and then the arrearages.

(h) This section shall remain in effect only until January 1, 2009, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2009, deletes or extends that date.

SEC. 2. Section 695.221 is added to the Code of Civil Procedure, to read:

695.221. Satisfaction of a money judgment for support shall be credited as follows:

(a) The money shall first be credited against the current month's support.

(b) Any remaining money shall next be credited against the principal amount of the judgment remaining unsatisfied. If the judgment is payable in installments, the remaining money shall be credited against the matured installments in the order in which they matured.

(c) Any remaining money shall be credited against the accrued interest that remains unsatisfied.



(d) In cases enforced pursuant to Part D (commencing with Section 651) of Subchapter 4 of Chapter 7 of Title 42 of the United States Code, if a lump-sum payment is collected from a support obligor who has money judgments for support owing to more than one family, after the implementation of the California Child Support Automation System (CCSAS), all support collected shall be distributed pursuant to guidelines developed by the State Department of Child Support Services.

(e) Notwithstanding subdivisions (a), (b), and (c), a collection received as a result of a federal tax refund offset shall first be credited against the principal amount of past due support that has been assigned to the state pursuant to Section 11477 of the Welfare and Institutions Code and federal law and then any interest due on that past due support, prior to the principal amount of any other past due support remaining unsatisfied and then any interest due on that past due support.

(f) If federal law does not permit states to adopt the same order of distribution for the pre- and post-assistance child support arrears effective October 1, 1998, the following shall be the order of distribution of child support collections through September 30, 2000, except for federal tax refund offset collections, for child support received for families and children who are former recipients of Aid to Families with Dependent Children (AFDC) program benefits or former recipients of Temporary Assistance for Needy Families (TANF) program benefits:

(1) The money shall first be credited against the current month's support.

(2) Any remaining money shall next be credited against interest that accrued on arrearages owed to the family or children since leaving the AFDC program or the TANF program and then the arrearages.

(3) Any remaining money shall next be credited against interest that accrued on arrearages owed during the time the family or children received benefits under the AFDC program or the TANF program and then the arrearages.

(4) Any remaining money shall next be credited against interest that accrued on arrearages owed to the family or children prior to receiving benefits from the AFDC program or the TANF program and then the arrearages.

(g) If federal law does permit states to adopt the same order of distribution for the pre- and post-assistance child support arrears effective October 1, 1998, or effective October 1, 2000, whichever comes first, the following shall be the order of distribution of child support collections, except for federal tax refund offset collections, for child support received for families and children who are former



recipients of AFDC program benefits or former recipients of TANF program benefits:

(1) The money shall first be credited against the current month's support.

(2) Any remaining money shall next be credited against the principal amount of the arrearages owed to the family or children since leaving the AFDC program or the TANF program and then the interest that accrued on those arrearages.

(3) Any remaining money shall next be credited against the principal amount of the arrearages owed to the family or children prior to receiving benefits from the AFDC program or the TANF program and then the interest that accrued on those arrearages.

(4) Any remaining money shall next be credited against the principal amount of the arrearages owed during the time the family or children received benefits under the AFDC program or the TANF program and then the interest that accrued on those arrearages.

(h) This section shall become operative on January 1, 2009.

SEC. 3. Section 4009 of the Family Code is amended to read:

4009. An original order for child support may be made retroactive to the date of filing the petition, complaint, or other initial pleading. If the parent ordered to pay support was not served with the petition, complaint, or other initial pleading within 90 days after filing and the court finds that the parent was not intentionally evading service, the child support order shall be effective no earlier than the date of service.

SEC. 4. Section 4504 of the Family Code is amended to read:

4504. (a) If the noncustodial parent is receiving payments from the federal government pursuant to the Social Security Act or Railroad Retirement Act, or from the Department of Veterans Affairs because of the retirement or disability of the noncustodial parent and the noncustodial parent notifies the custodial person, or notifies the local child support agency in a case being enforced by the local child support agency pursuant to Title IV-D of the Social Security Act, then the custodial parent or other child support obligee shall contact the appropriate federal agency within 30 days of receiving notification that the noncustodial parent is receiving those payments to verify eligibility for each child to receive payments from the federal government because of the disability of the noncustodial parent. If the child is potentially eligible for those payments, the custodial parent or other child support obligee shall apply for and cooperate with the appropriate federal agency for the receipt of those benefits on behalf of each child. The noncustodial parent shall cooperate with the custodial parent or other child support obligee in making that application and shall provide any information necessary to complete the application.



(b) If the court has ordered a noncustodial parent to pay for the support of a child, payments for the support of the child made by the federal government pursuant to the Social Security Act or Railroad Retirement Act, or by the Department of Veterans Affairs because of the retirement or disability of the noncustodial parent and received by the custodial parent or other child support obligee shall be credited toward the amount ordered by the court to be paid by the noncustodial parent for support of the child unless the payments made by the federal government were taken into consideration by the court in determining the amount of support to be paid. Any payments shall be credited in the order set forth in Section 695.221 of the Code of Civil Procedure.

(c) If the custodial parent or other child support obligee refuses to apply for those benefits or fails to cooperate with the appropriate federal agency in completing the application but the child or children otherwise are eligible to receive those benefits, the noncustodial parent shall be credited toward the amount ordered by the court to be paid for that month by the noncustodial parent for support of the child or children in the amount of payment that the child or children would have received that month had the custodial parent or other child support obligee completed an application for the benefits if the noncustodial parent provides evidence to the local child support agency indicating the amount the child or children would have received. The credit for those payments shall continue until the child or children would no longer be eligible for those benefits or the order for child support for the child or children is no longer in effect, whichever occurs first.

SEC. 5. Section 17402 of the Family Code is amended to read:

17402. (a) In any case of separation or desertion of a parent or parents from a child or children that results in aid under Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code being granted to that family, the noncustodial parent or parents shall be obligated to the county for an amount equal to the amount specified in an order for the support and maintenance of the family issued by a court of competent jurisdiction.

(b) The local child support agency shall take appropriate action pursuant to this section as provided in subdivision (f) of Section 17400. The local child support agency may establish liability for child support as provided in subdivision (a) when public assistance was provided by another county or by other counties.

(c) The amount of the obligation established for each parent with a liability under subdivision (a) shall be determined by using the appropriate child support guideline currently in effect and shall be computed as follows:



(1) If one parent remains as a custodial parent, the support shall be computed according to the guideline.

(2) If the parents reside together and neither father nor mother remains as a custodial parent, the guideline support shall be computed by combining the noncustodial parents' incomes. The combined incomes shall be used as the high earner's net monthly disposable income in the guideline formula. Income shall not be attributed to the caretaker or governmental agency. The amount of guideline support resulting shall be proportionately shared between the noncustodial parents based upon their net monthly disposable incomes.

(3) If the parents reside apart and neither father nor mother remains as a custodial parent, the guideline support shall be computed separately for each parent by treating each parent as a noncustodial parent. Income shall not be attributed to the caretaker or government agency.

(d) A parent shall pay the amount of support specified in the support order to the local child support agency.

